

### **REMARKS/ARGUMENTS**

Claims 1, 4-13, 15, 17-24, 26-31 and 33-35 are now pending in this application. Claims 1, 18, and 31 are independent claims. Claims 1, 4, 5, 18-20 and 31 have been amended. Claims 2, 3, 14, 16, 25 and 32 have been cancelled.

#### ***Claim Rejections – 35 USC § 102***

Claims 1, 6-9, 11, 13, 15, 17, 31 and 33-35 stand rejected under 35 U.S.C. § 102(b) as being anticipated by James, Jr., United States Patent Number: 3,138,815 (hereinafter: James). (Office Action, Page 2). Applicants respectfully traverse these rejections. With particular attention to claim 1, but is generally applicable to the other claims, claim 1 recites a marine and pool cleaner. Further, claim 1 recites that the marine and pool cleaner includes “a hand held cleaning head assembly including a handle coupled with a cleaning head, *the hand held cleaning head assembly further including an adjustment assembly for allowing manual, angular adjustment of the cleaning head relative to the handle.*” Support for these elements can be found in the specification (Present Application, Page 10, Paragraph 0018) of the present application as filed. None of the cited references teach these limitations. In the present case, the Office has failed to cite any teaching in any of the references which would anticipate a marine and pool cleaner having an adjustment assembly for allowing manual, angular adjustment of a cleaning head relative to a handle. As the Office is aware, in order to prove a *prima facie* case of anticipation, “a single prior source must generally contain all of the essential elements of the claim.” *W.L. Gore & Assoc. v. Garlock, Inc.*, 220 USPQ 303, 313 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Further, “the prior art reference must disclose each element of the claimed invention arranged as in the claim.” *Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)). Emphasis added. Anticipation cannot be established when “the prior art is lacking or missing a specific feature or the structure of the claimed invention.” *Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v Sears, Roebuck & Co.*,

722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)). Emphasis added. None of the above cited references describe each and every limitation sufficient to anticipate the claimed invention.

In light of the foregoing, Applicant respectfully submits a *prima facie* case of anticipation is not shown, therefore, removal of the pending rejections under 35 U.S.C. §102 to claims 1, 6-9, 11, 13, 15, 17, 31 and 33-35 is requested and allowance is earnestly solicited.

### ***Claim Rejections – 35 USC § 103***

Claims 1-4, 7-9, 11, 13, 15, 17 and 31-35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor, United States Patent Number: 4,825,496 (hereinafter: Taylor), in view of Farina, United States Patent Number: 6,598,262 (hereinafter: Farina). (Office Action, Page 3). Claims 1-3, 7-9, 11, 15, 17 and 31-35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cutler, United States Patent Number: 4,825,496 (hereinafter: Cutler) in view of Farina. (Office Action, Page 4). Claims 18, 19, 21, 22, 24, 26, 27, 29 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over James, in view of Farina, and further in view of Walker et al., United States Patent Number: 5,156,191 (hereinafter: Walker). (Office Action, Page 5). Claims 18, 19, 22, 26, 27, 29 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view of Farina, and further in view of Walker. (Office Action, Page 6). Claims 18, 22, 24, 26, 27 and 30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cutler, in view of Strickland, United States Patent Number: 3,988,799 (hereinafter: Strickland) and further in view of Walker. (Office Action, Page 7). Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over James in view of Farina, and further in view of Cramer, United States Patent Number: 689,464 (hereinafter Cramer). (Office Action, Page 8). Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor, in view of Farina and further in view of James. (Office Action, Page 9). Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor, in view of Farina, and further in view of Walker. (Office Action, Page 9). Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable

over Taylor in view of Farina. (Office Action, Page 9). Claim 20 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view of Farina, and further in view of Cramer. (Office Action, Page 10). Claim 23 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view of Farina and Walker. (Office Action, Page 10). Claim 28 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor in view of Farina and Walker. (Office Action, Page 11). Applicants respectfully traverse these rejections.

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (emphasis added) (MPEP § 2143). “If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious.” (emphasis added) *In re Fine*, 837 F. 2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988). Applicants respectfully submit that independent Claims 1, 18, and 31 include elements that have not been disclosed, taught or suggested by any of the references cited by the Patent Office, either alone or in combination.

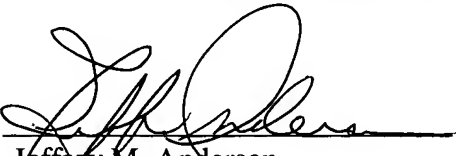
Independent claims 1, 18 and 31 of the present invention each generally recite a marine and pool cleaner having “a hand held cleaning head assembly including a handle coupled with a cleaning head, *the hand held cleaning head assembly further including an adjustment assembly for allowing manual, angular adjustment of the cleaning head relative to the handle*”. (Present Application, Page 10, Paragraph 0018).

None of the above-cited references, either alone or in combination, disclose, teach or suggest the above-referenced elements of the claimed invention. As a result, a *prima facie* case of obviousness has not been established for independent Claims 1, 18 and 31. Thus, independent Claims 1, 18 and 31 are believed allowable. Further, Claims 4-13, 15 and 17 (which depend from claim 1), Claims 19-24 and 26-30 (which depend from claim 18) and Claims 33-35 (which depend from claim 31) are therefore allowable.

**CONCLUSION**

In light of the forgoing, reconsideration and allowance of the pending claims is earnestly solicited.

Respectfully submitted on behalf of  
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